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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,911	08/06/2003	Bertrand Mallette	086169-0305261	6481
909	7590	04/09/2004		
PILLSBURY WINTHROP, LLP P.O. BOX 10500 MCLEAN, VA 22102				EXAMINER WINNER, TONY H
				ART UNIT 3611
				PAPER NUMBER

DATE MAILED: 04/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/634,911	MALLETTE ET AL.
	Examiner	Art Unit
	Tony H. Winner	3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 August 2003.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-5 is/are allowed.
- 6) Claim(s) 6-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/6/03.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 12-15 are objected to because of the following informalities:
  - a. There is no structure in claim 1 or 2 to support the recitation of claim 12.
  - b. There is no structure in claim 6 or 7 to support the recitation of claims 13-15, specifically, an axis of rotation. Claim 12 appears to correspond to claims 6 or 7 and claims 13-15 correspond to claim 12.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 6 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Karpik (US. patent 6,357,543 B1).

Karpik discloses a snowmobile suspension system, comprising:

- a. a suspension element (28a, 32a) pivotally connected to the vehicle, and

- b. a support (36a) having an elongated body having a front side defined by a forward direction of the vehicle and a rear side defined by a rearward direction of the vehicle;
- c. a first protrusion (see figure 5) projecting from one of the front side and the rear side of said body; and
- d. a second protrusion projecting from the same side of said body on the same side as said first protrusion, wherein one of said first protrusion and said second protrusion being moveably connected to said suspension element of the vehicle, and said elongated body being adapted to be connected to a ski or ground engaging element, and
- e. at least one hole (figure 5) passing therethrough,
- f. (applies to claim 12) an axis of rotation defined by a line which passes through one of first protrusion and second protrusion connected to the suspension element (see attachment A).

**Note:** It has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchinson, 69 USPQ 138.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karpik in view of Nakazawa et al. (US. patent 5,357,775).

With regard to claims 7 and 8, the examiner takes position that the first and second protrusions are integral with the support structure in a broadest sense of interpretation. Merriam-Webster's Collegiate Dictionary (Tenth Edition) defines the word "integral" as "formed as a unit with another part". In view of this definition, Karpik meets the limitation with regard to integral component but lacks the teaching of an aluminum extrusion support structure.

Nakazawa discloses a suspension component producing by extrusion process and further using light alloy (aluminum) for this component for the purpose of weight reduction.

Based on the teaching of Nakazawa, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support structure of Karpik to include the aluminum extrusion component of Nakazawa so as to provide weight reduction for the support structure.

With regard to claims 9-11, and 16, Karpik as modified by Nakazawa meets all of the claimed limitations.

Taking position that claim 12 depending on claim 7, Karpik as modified by Nakazawa discloses an axis of rotation defined by a line which passes through one of first protrusion and second protrusion connected to the suspension element (see attachment A).

Taking position that claims 13-15 depending on claim 12, Karpik as modified by Nakazawa discloses the claimed invention but lacks the teaching of any specific angle from vertical for the axis of rotation. It would have been an obvious matter of design choice to select any angle from vertical, since the applicant has not disclosed that by selecting specific angle would solve any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the present teaching.

### ***Reasons for Allowance***

4. The following is an examiner's statement of reasons for allowance:

Claims 1-5 are allowed because the prior art neither shows nor teaches that the first and second blocks are rotatably and slidably disposed on the first and second elongated cylindrical body, wherein the blocks having apertures for receiving first and second ends of the bar and in combination with other elements recited.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cornican ('662), Olson et al. ('966), Zulawski ('664), Kobayashi ('339), Callaway ('314), de Carbon ('152), and Stacy, Jr. ('130) are cited of interest.
6. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Anthony H. Winner whose telephone number is (703) 306-5957. The examiner can normally be reached on Monday-Friday from 9:30 am to 6:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the

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examiner's supervisor, Lesley Morris, can be reached at (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



**TONY WINNER**  
**PATENT EXAMINER**

April 1, 2004

